

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Stephen Crowell,	§	CIVIL ACTION NO. 11-393
Plaintiff,	§	
	§	
vs.	§	
	§	
ESC-NGH, L.P. d/b/a Emeritus at Champion	§	
Oaks a/k/a Emeritus Senior Living,	§	
and Emeritus Corporation	§	
Defendants.	§	A JURY IS DEMANDED

PLAINTIFF'S MOTION FOR ENTRY OF PROTECTIVE ORDER

Crowell asks the Court to enter a protective order because the defendants refuse to produce discovery without such an order in place. Crowell agrees that it is important that the parties limit the disclosure of information that is unquestionably confidential in nature and deserving of protection from uncontrolled dissemination. He has offered to do so.

The major disagreement between the parties is the scope of the protective order. Crowell believes in specificity; there should be no uncertainty as to what information is and is not covered by the order. The defendants want an order that defines the scope so broadly that they could unilaterally decide at some unknown date in the future that other information of their choosing will come under the purview of the order.

A proposed protective order is attached as Exhibit A.

Respectfully submitted,

s/ Paul R. Harris
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Certificate of Conference

Crowell has tried on multiple occasions, over the course of four months, to work with the defendants to hammer out provisions that are workable, reasonable, and clear:

(1) Plaintiff's counsel emailed defense counsel a proposed protective order that was specific to the needs of this case on November 18, 2013;

(2) during a phone call on December 3, 2013, defense counsel was not prepared to discuss the draft, but instead proposed using the form protective order for the Western District of Texas, without providing a draft based on that form or any explanation as to why a form-order was appropriate for this case;

(3) plaintiff's counsel obtained the Western District form himself, explained why it was ill-suited to the particular needs of this case via email on December 18, 2013, and asked defense counsel to propose changes to the draft that he drafted specifically for this case;

(4) instead, defense counsel did not respond to the plaintiff's concerns about the Western District order until January 30, 2014, and (after the plaintiff requested it) sent plaintiff's counsel a new proposed draft based on the Western District order via email on January 31, 2014, with no explanation as to why documents it defined as confidential should be confidential; defense counsel never worked with the draft protective order the plaintiff wrote for this case;

(5) plaintiff's counsel provided extensive comments, explanations, and proposed revisions to the latest draft from the defense via letter on February 19, 2014, and asked defense counsel to explain their position on the disputed items;

(6) after not hearing back from defense counsel on those revisions, plaintiff requested a discovery hearing on February 26, 2014;

(7) only after the plaintiff sought a discovery hearing did defense counsel provide another proposed draft via email on February 27, 2014, but defense counsel still provided no explanation for why the document categories they listed truly warrant confidentiality, why an open-ended category of confidential documents is needed, or why the plaintiff's proposals were deficient for any reason; and

(8) plaintiff's counsel responded to that draft with some counter-proposals via email on March 2, 2014. Since then, plaintiff's counsel received nothing further, leading to a renewed request for a discovery conference on March 14, 2014, and this motion.

/s/ Paul R. Harris

Certificate of Service

I certify that, on March 20, 2014, I filed this document electronically with the U.S. District Court for the Southern District of Texas, and, further, that all counsel of record receive filings in this case via that electronic filing service.

/s/ Paul R. Harris